wherein said one or more discrete software data streams are transmitted over said select ones of said one or more broadcast channels at a scheduled time, each of said one or more discrete *software* data streams having a unique ID associated therewith; and

wherein said select ones of said one or more discrete software data streams are downloaded via said receiver to said monitoring interface for filtering said discrete software data streams according to said respective unique IDS.

REMARKS

Applicants have carefully reviewed the Office Action dated July 26, 2002. Applicants have amended Claims 1 and 16 to more clearly point out the present inventive concept. Reconsideration and favorable action is respectfully requested.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over various combinations of two to five U.S. patents, including two primary references which are U.S. Patent No. 5,666,293 Metz et al. (*Metz*) in view of U.S. Patent No. 5,894,516 to Brandenburg (*Brandenburg*). Since the Detailed Action addresses Claims 16-30 in particular, Applicants' Remarks likewise address Claims 16-30 in particular. The rejections of Claims 1-15, being similar to Claims 16-30, are likewise respectfully traversed by the following Remarks.

Regarding Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over *Metz* in view of *Brandenburg*, this rejection is respectfully traversed as follows. It will be helpful to review the Applicants' system, which, as recited in the amended Claim 16, fulfills a broad purpose and is necessarily configured structurally to provide for the distribution and delivery of any category of software to a user. In the Applicants' invention, a receiver and channel selector receives the broadcast signal and relays the broadcast signal containing the discrete software data stream by one or more designated channels to a monitoring interface. The monitoring interface monitors and filters

incoming discrete software data channels. Conventional television signals are output from other channels of the receiver to a television receiver. The software data, following extraction from the broadcast signal filtering according to an output ID and processing, all in a listening interface, is then sent to a storage device. This configuration described hereinabove enables the distribution and delivery of a wide variety of software ultimately to any device which connects as the storage device.

In contrast, the system and method of *Metz* has the limited purpose "to reliably and securely download operating system software to . . . programmable set-top terminal devices via a broadcast channel (e.g., fiber or cable) in order to upgrade the operation of the intelligent terminals (set-top boxes) in providing a variety of "functionalities, as needed to facilitate a range of audio/video and interactive services." The system and method of *Metz* is embodied in the configuration of the *transmitting end of the broadcast channel* and in the configuration and operation of this set-top terminal which is coupled between the broadcast channel and the user's television receiver at the receiving end of the broadcast channel.

Regarding Claim 16, the Examiner is correct in that "*Metz* does not explicitly teach a system wherein software data streams are transmitted at a scheduled time." However, *Metz* also does not teach several other features of the amended Claim 16. These other features include the monitoring interface connected between the receiver and the user's data storage device and that the receiver passes its output signals to the monitoring interface which enables filtering by the user of the software desired to be stored in the user storage device. While the limitation in Applicants' Claim 16 that the transmission of software data occurs at a scheduled time may be taught by *Brandenburg*, this reference does not cure the other deficiency in *Metz* - its lack of a monitoring interface connected between the receiver and user storage device, for the purpose of extracting the software data from the broadcast signal, selecting or filtering the software according to respective unique IDS, and processing the software outputs. Moreover, *Brandenburg* provides a method and system for delivering via, e.g., a satellite link, a software program *in response to* a licensed customer order; that is, *the selection occurs before* the software is transmitted and only the program order is transmitted

to the customer placing the order. This method and system are clearly distinct from the Applicants' invention as recited in Claim 16 and also in method Claim 1. Thus, the Applicants' monitoring interface and selection or filtering function does not read on the *Brandenburg* reference and this reference fails to cure the deficiencies of *Metz*. Moreover, because neither reference teaches the distribution of discrete software to the user, and selection of the software according to a unique ID, for storage at the user location during a scheduled time, there is no motivation to combine *Metz* and *Brandenburg*.

For the foregoing reasons, Applicants respectfully submit that the cited combination of references either singularly or taken together does not anticipate or obviate the invention set forth in Applicants' Claims 1 and 16 as amended. Applicants therefore respectfully request the withdrawal of this rejection and the reconsideration of Claims 1 and 16 as amended for allowance.

Regarding Claims 18, 19, 20, 21, 25, 26, 27, 28, 29 and 30, rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over the combination of *Metz* and *Brandenburg*, this rejection is respectfully traversed as follows. All of these claims depend directly or ultimately from independent Claim 16 and include all of the limitations of Claim 16 as amended hereinabove. Since the base Claim 16 has been amended to clearly distinguish it from the combination of *Metz* and *Brandenburg* and therefore allowable over the cited prior art, Applicants respectfully submit that the claims depending therefrom are likewise patentable over the prior art of record.

Regarding Claim 17, rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of *Metz*, *Brandenburg* and U.S. Patent No. 5,935,004 to Tarr et al. (*Tarr*); Claims 22 and 23 rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over the combination of *Metz* and *Brandenburg* in view of U.S. Patent No. 5,003,384 to Durden et al. (*Durden*); and Claim 24 rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over the combination of *Metz, Brandenburg* and *Durden* in view of U.S. Patent No. 6,317,885 to Fries (*Fries*), this rejection is respectfully traversed as follows. Each of the dependent Claims 17, 22, 23 and 24 are dependent from the independent

base Claim 16 which, as heretofore amended is now believed allowable over the combination of the primary references *Metz* and *Brandenburg*. Therefore, since the dependent claims contain all of the limitations of the base claim from which they depend directly or ultimately, Applicants respectfully submit that Claims 17, 22, 23 and 24 are likewise allowable over the prior art of record and accordingly request the allowance thereof.

Regarding Claims 1-15, containing similar limitations and therefore rejected on the same basis as Claims 16-30, the base Claim 1 has been amended in a manner similar to Claim 16 by the recitation of the monitoring interface. Claim 1 as so amended is therefore distinguishable over the same combination of references as discussed hereinabove as to Claim 16, and Applicants respectfully submit this rejection is thus likewise traversed. Further, because dependent Claims 2-15 contain, directly or ultimately, all of the limitations of base Claim 1, Applicants respectfully submit that Claims 2-15 are likewise patentable over the cited combinations of references and respectfully request the allowance thereof.

Applicants have now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicants respectfully request full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-24,767 of HOWISON, THOMA & ARNOTT, L.L.P.

Respectfully submitted,
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Amended) A method for distributing software, comprising the steps of:

providing a television broadcast distribution system having one or more broadcast channels for broadcasting analog and digital television information to a receiver of a user;

designating select ones of the one or more broadcast channels for the transmission of one or more discrete software data streams;

transmitting the one or more discrete software data streams over the select ones of the one or more broadcast channels at a scheduled time, each of the one or more discrete software data streams having a unique ID associated therewith;

selecting [for download via the receiver], in a monitoring interface connected to the receiver, selected ones of the one or more discrete software data streams according to the respective unique IDS for download via the receiver; and

downloading the selected one or more discrete software data streams to a user storage device during the scheduled time for use by the user, the user storage device connected to the receiver through said monitoring interface.

16. (Amended) A system for distributing software, comprising:

a television broadcast distribution system having one or more broadcast channels for broadcasting analog and digital television information to a receiver of a user;

one or more discrete software data streams designated for transmission on select ones of said one or more broadcast channels; and

a user storage device connected to said receiver through a monitoring interface for storing said selected one or more discrete software data streams which were downloaded;

wherein said one or more discrete software data streams are transmitted over said select ones of said one or more broadcast channels at a scheduled time, each of said one or more discrete *software* data streams having a

unique ID associated therewith; and

wherein said select ones of said one or more discrete software data streams are downloaded via said receiver to said monitoring interface for filtering said discrete software data streams according to said respective unique IDS.